

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES EDWARD HUSOK,

Petitioner,

v.

MARK CAPOZZA, *et al.*,

Respondents.

Civil Action No. 2:21-cv-92

Hon. William S. Stickman IV
Hon. Maureen P. Kelly

ORDER OF COURT

AND NOW, this 5th day of July 2024, after James Edward Husok (“Petitioner”) filed a Petition for Writ of Habeas Corpus (ECF No. 1), and after a thorough Report and Recommendation was filed by Magistrate Judge Maureen P. Kelly recommending denial of the petition and the denial of a certificate of appealability (ECF No. 13), and having received Petitioner’s Objections (ECF No. 15) and conducting its independent *de novo* review of the entire record, the Court hereby ADOPTS Magistrate Judge Kelly’s Report and Recommendation as its Opinion. It concurs with her thorough legal analysis, her legal conclusions, and her recommendations. It has independently reached the same conclusions.

The Court hereby OVERRULES Petitioner’s Objections (ECF No. 15). It concurs with Magistrate Judge Kelly that an evidentiary hearing was not required, or warranted, in the particular circumstances of this case, and that the lack of a hearing at the PCRA level does not implicate the United States Court of Appeals for the Third Circuit’s recent decision in *Fooks v. Superintendent, Smithfield SCI*, 96 F.4th 595 (3d Cir. 2024).

IT IS HEREBY ORDERED that Petitioner’s Writ of Habeas Corpus (ECF No. 1) is DENIED.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED. Reasonable jurists would not find the Court's conclusion (i.e., denying the petition) debatable or wrong.¹

IT IS FINALLY ORDERED that pursuant to Federal Rule of Appellate Procedure 4(a)(1), if Petitioner desires to appeal from this Order, he must do so within thirty (30) days by filing a notice of appeal as provided in Federal Rule of Appellate Procedure 3.

The Clerk is directed to mark this CASE CLOSED.

BY THE COURT:



WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE

¹ A certificate of appealability may issue only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner must "demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong, a demonstration that [] includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation omitted).